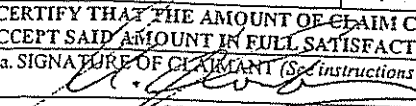


| | | | | | |
|---|--|---|---|--|--|
| CLAIM FOR DAMAGE, INJURY, OR DEATH | | INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions. | | FORM APPROVED OMB NO. 1105-0008 EXPIRES 5-31-05 | |
| 1. Submit To Appropriate Federal Agency: Department of Homeland Security U.S. Immigration & Customs Enforcement | | | 2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) Michael Kamburowski 310 West 89th Street, #2 R New York, New York 10024 | | |
| 3. TYPE OF EMPLOYMENT MILITARY (CIVILIAN) | 4. DATE OF BIRTH 5/3/71 | 5. MARITAL STATUS Married | 6. DATE AND DAY OF ACCIDENT 1/22/04 | 7. TIME (A.M. OR P.M.) 10:00AM | |
| 8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) On January 22, 2004, The Department of Homeland Security (DHS), U.S. Immigration & Customs Enforcement (ICE) illegally and wrongfully arrested and detained Michael Kamburowski at 711 Stewart Avenue, Garden City, N.Y. 11530. | | | | | |
| 9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code) BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side) | | | | | |
| 10. PERSONAL INJURY/WRONGFUL DEATH STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT Illegal and wrongful incarceration and detention for approximately 30 days at the Queens Detention Facility, 182-22 150th Avenue, Jamaica, N.Y. 11413 and said detention caused loss of employment and wages. | | | | | |
| 11. WITNESSES | | | | | |
| NAME | | | ADDRESS (Number, street, city, State, and Zip Code) | | |
| Gina Kamburowski Valeri F. Auletta, DAO S.A. Michael Kidd | | | 310 West 89th Street, #2 R, New York, NY 10024 USCIS, 711 Stewart Avenue, Garden City, N.Y. 11530 DHS, 26 Federal Plaza, New York, N.Y. 10278 | | |
| 12. (See instructions on reverse) | | | | | |
| AMOUNT OF CLAIM (in dollars) | | | | | |
| 12a. PROPERTY DAMAGE N/A | 12b. PERSONAL INJURY \$5 Million | | 12c. WRONGFUL DEATH | 12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$5 Million | |
| I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM | | | | | |
| 13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)  | | | 13b. Phone number of signatory 212-662-8356 | 14. DATE OF CLAIM 6/30/05 | |
| CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 31 U.S.C. 3729.) | | | CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Imprisonment for not more than five years and shall be subject to a fine of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 18 U.S.C.A. 287.) | | |

95-108

Previous editions not usable

NSN 7540-00-634-4046

STANDARD FORM 95 (Rev. 7-85)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

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Dockets.Justia.com

This Notice is provided in accordance with the Privacy Act, 5 U.S.C 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.
A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

PRIVACY ACT NOTICE

- B. *Principal Purpose:* The information requested is to be used in evaluating claims.
C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".

INSTRUCTIONS

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF

Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item #1 on the reverse side. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplemental regulations also. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with said claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item #12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or other aspect of this collection of information, including suggestions for reducing this burden, to Director, Torts Branch

Civil Division
U.S. Department of Justice
Washington, DC 20530

PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT, THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

- (b) In support of claims for damage to property which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

- (d) Failure to completely execute this form or to supply the requested material within two years from the date the allegations accrued may render your claim "invalid". A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

Failure to specify a sum certain will result in invalid presentation of your claim And may result in forfeiture of your rights.

INSURANCE COVERAGE

In order that subrogation claims be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? Yes, if yes give name and address of insurance company (Number, street, city, State, and Zip Code) and policy number. (No)

16. Have you filed claim on your insurance carrier in this instance, and if so, is it full coverage or deductible?

N/A

17. If deductible, state amount

18. If claim has been filed with your carrier, what action has your insurer taken or proposes to take with reference to your claim? (It is necessary that you ascertain these facts)

N/A

19. Do you carry public liability and property damage insurance? Yes, if yes, give name and address of insurance carrier (Number, street, city, State, and Zip Code) (No)



Department of Homeland Security
Bureau of Immigration and Customs Enforcement

COU 90/16.29

Office of the Principal Legal Advisor

Room 103, 70 Kimball Avenue
South Burlington, Vermont 05403-6813

July 22, 2005

Michael P. DiRaimondo
DiRaimondo & Masi, LLP
401 Broadhollow Road, #302
Melville, New York 11747
Fax: (631) 777-5114

Re: Administrative claim of Michael Kamburowski

Dear Mr. DiRaimondo:

I have received your claim for damages referenced above. We will process the claim under the Federal Tort Claims Act, Title 28 United States Code, §§ 2671-2680, which gives a government agency up to six months to adjudicate a damage claim, beginning from the date the agency receives the claim. If the agency fails to act within that period, or if it denies the claim, you can file a lawsuit in the appropriate United States District Court.

Although we attempt to address claims as quickly as possible, it may be some time before this one is resolved because we are experiencing some significant delays in our processing times. I thank you in advance for your patience.

A. ☐ My initial review of the claim and the supporting documentation indicates that they are complete and you do not need to provide more information. If after further review of the material I have any questions or need additional information, I will contact you.

B. ☒ The claim you have filed is incomplete. Pursuant to Title 28 Code of Federal Regulations Part 14, please send me the following additional information by mail **or by fax (802-660-5067)**:

☐ Please complete the enclosed Standard Form 95 (SF-95):

X If you are representing another person or persons, a written, signed authorization from that person or persons for you to act on his/her/their behalf (the Form G-28 notice of representation we have on file is not signed by your clients).

 Your social security number. If the government accepts the claim in whole or in part, the finance center uses this number as an identifier when it processes the payment.

X The employer ID or tax ID number for your company or firm. If the government accepts the claim in whole or in part, the finance center uses this number as an identifier when it process the payment check.

 A list of each item you claim was lost or damaged, including the approximate date you bought it and the approximate amount you paid for it.

 Proof you owned the lost or damaged property. For a motor vehicle, this can be a copy of the registration certificate or the title certificate.

X If making a claim for emotional distress, a written report from your client's attending physician setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity.

X Itemized bills for all the medical, dental, and hospital expenses your client incurred, or itemized receipts of payment for such expenses.

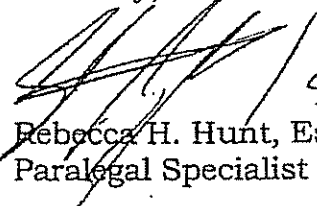
X If your client's prognosis reveals the need for future treatment, a statement of expected expenses for such treatment.

X If your client is employed and is making a claim for loss of time from employment, a written statement from your client's employer showing actual time lost from employment, whether your client is a full or part-time employee, and wages or salary actually lost.

X If your client is self-employed and is are making a claim for loss of income, documentary evidence showing the amount of earnings actually lost.

X Other: Please specify the basis for your claim of damages in the amount of \$5,000,000.00.

Sincerely,

 Steve Ball for
Rebecca H. Hunt, Esq.
Paralegal Specialist

DiRAIMONDO & MASI, LLP
ATTORNEYS AT LAW

FILE

401 BROADHOLLOW ROAD, #302
MELVILLE, NEW YORK 11747
(631) 777-5557
(631) 777-5114 FAX

120 BROADWAY, 18TH FLOOR
NEW YORK, NEW YORK 10271
(212) 587-0550
FAX (212) 587-0545

FEDERAL EXPRESS

October 5, 2005

Department of Homeland Security
Bureau of Immigration and Customs Enforcement
Office of the Principal Legal Advisor
70 Kimball Avenue, Room 103
South Burlington, Vermont 05403-6813

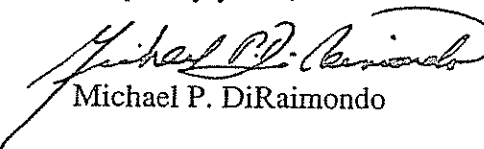
Re: Administrative Claim of Michael Kamburowski

Dear Sir/Madam:

We are in receipt of your letter dated June 22, 2005, requesting this office to provide additional information regarding the Administrative Claim filed on behalf of Michael Kamburowski. Please note that we are in the process of obtaining the information requested and will forward it to your attention as soon as it is received.

Thank you for your time and consideration of this request.

Very truly yours,


Michael P. DiRaimondo

cc: Michael Kamburowski

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Handwritten signature

Department of Homeland Security
Bureau of Immigration and Customs Enforcement

90/16.1

Office of the Principal Legal Advisor

70 Kimball Avenue
South Burlington, Vermont 05403

October 17, 2005

Michael P. DiRaimondo, Esq.
DiRaimondo & Masi
Suite 302
401 Broadhollow Rd.
Melville, NY 11747

OCT-18-2005

Re: Michael Kamburowski

Dear Mr. DiRaimondo:

The claim for damages you filed against the Department of Homeland Security on behalf of Michael Kamburowski has been denied. This letter is furnished as notice that the claim has been considered and has been denied.

If you wish to file suit against the United States to recover any alleged damages or expenses incurred, pursuant to 28 USC § 2401(b) you must do so in the appropriate United States District Court no later than six months after the date of mailing of this letter.

Sincerely,

Scott A. Whitted
Associate Legal Advisor

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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